

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:09CV76-1-MU

RODNEY D. SPRUILL,

Plaintiff,

v.

STEVE BAILEY, et al.,

Defendants.

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**ORDER**

**THIS MATTER** comes before the Court upon Plaintiff's Motion to Reconsider, filed August 19, 2009.

On July 20, 2009, Plaintiff filed a Complaint pursuant to 42 U.S.C. § 1983 with this Court. In an August 4, 2009, Order this Court dismissed Plaintiff's Complaint for a variety of reasons. Relevant to the present motion, this Court dismissed Plaintiff's claim against Defendant Fox for failure to exhaust. More specifically, the Court noted that nowhere in the grievance identified by Plaintiff as exhausting his claims, did he complain or allude to the fact that Defendant Fox had hit him in the eye with a food tray. Consequently, because Plaintiff did not place the prison on notice with regard to the main action that forms the basis of his federal Complaint, this Court concluded that Plaintiff had not exhausted this claim.

Plaintiff has now filed a letter with this Court alleging that a page is missing from his initial grievance which contained references to the claim that Defendant Fox hit him in the eye with a food tray. The Court has carefully reviewed Plaintiff's letter and attached documents and has concluded

that Plaintiff has altered the documents. A comparison of the copy of the grievance submitted by the prison and the copy of the same grievance submitted by Plaintiff reveals that written on the copy submitted by Plaintiff are two references to the allegedly missing page three that would render his claim exhausted. Neither of these references appear on the copy submitted by the prison. The reference on the first page of Plaintiff's grievance is odd because the reference to the third page is outside of the brackets. Even more telling is the fact that on the back of that page is a reference that the handwritten page is "Pg. 2 of 2." This Court finds Plaintiff's present self-serving allegation wholly incredible.

**IT IS THEREFORE ORDERED THAT Plaintiff's Motion to Reconsider is DENIED.**

Signed: November 3, 2009

A handwritten signature in black ink, appearing to read "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

